IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

J U D G M E N T

SMT.RAJANI DEVI VERSUS HINDUSTAN PETROLEUM CORP.LTD.& ANOTHER.
S.B.C.MISC.APPEAL NO.1713/06
AGAINST THE ORDER DATED 10TH NOVEMBER 2006 PASSED BY THE LEARNED ADDL. DISTRICT JUDGE NO.1,CHITTORGARH.

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DATE OF JUDGMENT :- 29.11.2006

PRESENT
HON'BLE MR.JUSTICE PRAKASH TATIA.
Mr.O.P.Mehta,counsel for the appellant.
Mr.Arun Bhansali, counsel for the respondents.

BY THE COURT :-

Heard learned counsel for the parties.

The appellant submitted petition under Section 9 of the Arbitration & Conciliation Act,1996, in the court of District Judge, Chittorgarh,. The appellant applicant submitted this petition showing urgency for interim relief but the post of District Judge,Chittorgarh, was vacant. When the matter was placed before link Court the learned District Judge No.1, Chittorgarh, he was of the view that he cannot decide main petition itself as link Court. The appellant submitted an application and prayed that in view

of the some alleged hasty act of the respondents which took place after filing of the application under Section 9 of 1996 by the appellant applicant, the prayer for interim relief in proceedings under Section 9 of the Act of 1996 may be considered and may be granted in favour of the appellant.

The respondent raised objections with respect to the jurisdiction of the Court of Additional District Judge No.1, Chittorgarh on the basis of legal plea that any order in petition under Section 9 of the Act of 1996 can be passed only by the principal Court of Civil Jurisdiction and that Court is Court of District Judge, Chittorgarh, and Additional District Judge Court has no jurisdiction to pass any order. The respondents further raised objection of territorial jurisdiction of the District Court, Chittorgarh also on the ground that in the contract between the appellant and respondents there is specific condition that Court at Udaipur alone shall have jurisdiction. The respondents also submitted an application under order 7 Rule 10 C.P.C. with the prayer that petitioner under Section 9 filed by the appellant may be returned for presentation in proper Court as this Court, the Court of District Judge Chittorgarh, has no

jurisdiction to hear the petition under Section 9 of the Act of 1996 in view of the contract of exclusion of other courts jurisdiction except of Udaipur Court.

The learned Additional District Judge No.1 in impugned order observed that the Court cannot finally decide the question of jurisdiction and also observed that there is some force in the objection of the respondents that Court at Chittorgarh has no jurisdiction to hear the matter. Learned Additional District Judge No.1 vide order dated 10th November 2006 refused to pass interim order in favour of the appellant. The court below also did not decide the application filed by the respondents under order 7 Rule 10 C.P.C. Hence, this appeal of the applicant appellant.

The learned counsel for the appellant submitted that in view of the objections of the respondent about territorial jurisdiction of the Court at Chittorgarh if the petition under Section 9 of the Act filed by the appellant under the Act of 1996 is transferred to the Court of District Judge,Udaipur, not only he has no objection and further by transferring this petition under Section 9 to the Court at

Udaipur the dispute with respect to the territorial jurisdiction and objection raised in the application under order 7 rule 10 CPC all will come to an end.

Learned counsel for the Respondents submits that they have rightly raised the objection about the jurisdiction of the Court at Chittorgarh and only court at Udaipur has jurisdiction.

In view of the stand taken by both the parties, it will be appropriate that petition filed under Section 9 of the Arbitration and Conciliation Act,1006 be transferred to the District Court, Udaipur, for deciding it according to law.With this, the application of the respondents under order 7 Rule 10 CPC will be infructuous and objection about the territorial jurisdiction will not survive.

Since the Court below vide order dated 10th Nov.2006 has not decided the application under Section 9 of Act of 1996 on merits nor it appears from the impugned order that Court has applied its mind to the merits of the case, therefore, in present appeal there is no need to

quash order dated 10th Nov.2006 as it is interim order passed in proceedings seeking interim relief only.

In view of above, the application under Section 9 of the Arbitration and Conciliation Act,1996 filed by the appellant is hereby withdrawn from the Court of District Judge, Chittorgarh and is hereby transferred to the District Court, Udaipur. The learned District Judge, Udaipur may decide the application under Section 9 of the Act of 1996 expeditiously without influencied from any observation made in the order dated 10th November 2006. Both the parties are directed to appear before the Court of District Judge, Udaipur on 04th December 2006. The appeal is disposed of accordingly.

(PRAKASH TATIA)J.

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